

ELEMENT NINE

CORRECTIVE ACTIONS/SANCTIONS (29 CFR 37.54(d)(2)(C)(vii))

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(C)(vii).

Background

ESD will seek corrective action from a WIA recipient if a violation is identified in the following circumstances:

- The State/ESD EO Officer's periodic monitoring identifies a technical deficiency, a failure to follow through on written assurances, a barrier to universal access to or disparate impact in programs or services.
- The assessment of the circumstances surrounding a complaint and/or grievance, and/or the use of desk audits, on-site reviews, investigation or other fact-finding tools in conjunction with the assessment process, reveals barriers to equal opportunity or access to WIA, ES or UI services.
- A WIA recipient refuses to implement voluntary corrective action, submit requested data or documentation, or provide access to premises or records during a compliance review.

The Employment Security Department has notified its recipients of their responsibility through issuance of WIA Title I-B Policy Number 3445 – Equal Opportunity and Nondiscrimination. (Attachment 9A) Local Workforce Development Areas are required to establish policy and procedures for obtaining prompt corrective action or, as required, applications of sanctions when a training provider or other recipient is not in compliance with the nondiscrimination and EO provisions of WIA.

When the need for corrective action is identified by the local EO Officer, s/he is expected to recommend voluntary corrective action(s) to the WDC and a reasonable minimum timeframe to completely correct each situation for which corrective action is recommended. S/he notifies the State/ESD EO Officer of the situation(s) discovered, the corrective action(s) being implemented, and the timeframe(s) for completion of each.

Voluntary Compliance

If the need for corrective action is identified by the State/ESD EO Officer, s/he notifies the recipient in writing of the violation(s), along with recommendations for corrective action.

The WDC is given the opportunity to initiate voluntary corrective action. The State/ESD EO Officer provides technical assistance and consultation on the specific action(s) to correct the violation(s). The WDC and the State/ESD EO Officer enter into a conciliation agreement, specifying the commitment the office will undertake to correct the violation(s), behavior and/or practice. The WDC reports back to the State/ESD EO Officer upon completion of the corrective action and at any intermediary times specified in the conciliation agreement. The State/ESD EO Officer or designee conducts follow-up visits, monitoring, etc., if required, to ensure that the violation(s) does/do not recur.

Corrective action should be completed within 45 days from the date of initial notification of the violation.

Final Determination

After all efforts for voluntary compliance have been exhausted, the State/ESD EO Officer notifies the ESD Commissioner in writing. The final determination specifies the following:

- Efforts made to achieve voluntary compliance, along with the areas of disagreement (if known);
- The apparent violation(s) and pertinent nondiscrimination EO provision(s) of 29 CFR Part 37; and
- The corrective action the recipient must take to address the violation(s).

The ESD Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. The ESD Commissioner considers sanctions only if the recipient does not agree to take voluntary corrective action. Sanctions that may be imposed include, but are not limited to:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.

Documentation

Attachments for Element Nine

9A WIA Title I-B Policy Number 3445 – Equal Opportunity and Nondiscrimination